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Humanitarian Assistance or ‘Association With Terrorists’?

How U.S Antiterrorism Financing Policy De-Limit
Humanitarian Organizations: A Disciplinary Power Analysis

Abstract

In this thesis, the power dynamics underpinning the relationship between USAID-funded humanitarian organizations and U.S governmental agencies – in relation to the Global War on Terror (GWOt) - are critically investigated. To this end, a Foucauldian lens of 'disciplinary power' is utilized to uncover U.S governmental agencies' employment of disciplinary practices categorized as surveillance, correction and normalization. It is argued that the reported tensions between counterterrorism measures and humanitarian principles are the result of U.S promotion of a norm of *non-association with terrorists*. When a Foucauldian discourse analysis of the empirical material is conducted, it is found that USAID:s implementation of the Partner Vetting System; the material support-statute in U.S federal law; the inclusion of Anti-terrorism financing clauses in donor contracts; and the U.S Department of Treasury's Anti-terrorist financing guidelines to "Voluntary Best Practices", all interplay to discipline humanitarian organizations behavior. The result is that a strong incentive is created for organizations to self-correct by compromising with the humanitarian imperative and avoiding implementation of projects in areas controlled by Designated Terrorist Organizations.

Keywords: Global War on Terror, Humanitarian principles, Humanitarian organizations, Disciplinary power, USAID, non-association, Discourse

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List of Abbreviations

FBI – Federal Bureau of Intelligence
DTO – Designated Terrorist Organization
GWOt – Global War on Terror
HLP - Humanitarian Law Project
IHL – International Humanitarian Law
IR – International Relations
LTTE - Liberation Tigers of Tamil Eelam (Sri Lankan DTO)
NIAC – Non-International Armed Conflict
NSAG – Non-State Armed Group
PKK - Artiya Karkeran Kurdistan (Kurdish DTO)
PVS – Partner Vetting System
RBA – Risk-Based Assessment
U.S – United States
USAID – United States Agency for International Development

1 Introduction

The end of the Cold War and relative decline of the hegemonic state-centrist IR-theory induced a change in the way security was perceived. In contrast to the previously unthreatened *Realist* view, the rise of *human security* entailed a shift in the referent object of security toward the individual (Jarvis & Holland 2015, p.40-1, Fakuda-Parr & Massineo 2012, p.2-3). Symptomatic of this was the notion of states' *responsibility to protect* populations from large scale violence as a response to the horrors witnessed in Rwanda and Bosnia. *Humanitarianism* was on the rise, and the operative space and state support for non-governmental organizations providing humanitarian assistance in conflict zones widened significantly during the 1990s (Howell & Lind 2009, p.8-11). As many have argued, however, this global trend was halted by the events of 9/11 and the following Global War on Terror (henceforth GWoT). Once more, the global political landscape changed as terrorism was declared the number one threat to international peace and security, and a plethora of international and national counterterrorism measures were hastily introduced with far-reaching consequences (Jackson 2016, p.26-7, Howell & Lind 2009, p.46-50).

In the post 9/11-era, concerns have been expressed by humanitarian organizations regarding a tension between states' counterterrorism measures and the principles guiding humanitarian action, codified in International Humanitarian Law (IHL). As the arguably most powerful forerunner and innovator of the GWoT, the practices of the United States (U.S) have been particularly criticized in this context, including its overly broad prohibitions against "material support" to terrorists which effectively criminalizes humanitarian assistance, as well as regulative measures that infringe on humanitarian principles and create a 'chilling effect' on aid (Debarre 2018, Mackintosh & Duplat 2013, Wynn-Pope, Zegenhagen & Kurnadi 2015). A key problem with these measures is the fact that organizations designated with the terrorist-label occasionally control territory inhabited by populations in need, making it virtually impossible for humanitarian actors to engage in these areas without associating with them to some extent (General Assembly 2018). As this thesis will show by employing a lens of *disciplinary power*, forces within the U.S governmental agencies perpetuate this dynamic.

Purpose and research question

The phenomenon of counterterrorism measures circumscribing humanitarian access to populations in need constitutes a real and tangible problem. Modern conflicts have increasingly moved into civilian areas, generating humanitarian emergencies by disrupting access to food and clean water, destroying critical

infrastructure, shattering the local economy and creating an enormous dependence on humanitarian action (Malley 2018). Counterterrorism measures have added to these problems and exacerbated humanitarian emergencies with terrible consequences. For example, USAID's inability to provide timely famine relief during the drought in Somalia 2011 - after reports of aid diversion to the Designated Terrorist Organization (DTO) Al-Shabaab – directly contributed to the death toll of 250 000 Somalis (Menkhaus 2012).

Drawing from this, I firmly believe that state practices that arbitrarily interrupts the provision of impartial humanitarian aid should be critically analyzed - thus warranting the need for this study to be conducted. The purpose of this thesis is therefore to critically investigate the hidden practices of power through which states delimit humanitarian organizations' presence in terrorist-controlled areas. By understanding this phenomenon as a conscious strategy related to the broader discourse of GWOt, rather than an unfortunate byproduct of counterterrorism efforts, I intend to contribute with a critical perspective to the field. Furthermore, by employing a Foucauldian notion of 'disciplinary power' to demonstrate how U.S agencies attempt to 'discipline' humanitarian organizations from avoiding DTO-controlled areas, I also aim to advance the existing theoretical literature by applying it to explore new political domains.

More specifically, I will examine and describe the various ways in which the disciplining elements of surveillance, correction and normalization are used to subtly encourage humanitarian actors to normalize and enact the norm of *non-association with terrorists*, which is central in the GWOt-discourse. Accordingly, I have formulated my research question in descriptive terms;

How do U.S governmental agencies attempt to 'discipline' USAID-funded humanitarian organizations into reducing their presence in areas controlled by designated terrorist organizations?

The thesis is structured as follows. In section 2, previous research on the tension between counterterrorism measures and humanitarian principles is discussed, before outlining the theory of Disciplinary Power and its relevance for this study through a set of key assumptions. In section 3 the various methodological considerations made with respect to the study are discussed, including the basic tenets of the Foucauldian discourse analysis that is employed, and the operationalization of the theory. In section 4, the contrasting priorities and logics pertaining to humanitarian organizations and the GWOt-discourse are briefly discussed, before analyzing the empirical material through analytical questions. Finally, in section 5, the answers to the questions are summed up and used to answer the overarching research question, before concluding with a discussion on the implications of the results.

2 Theory

In this section, I will first outline some of the key research that has been done on the tension between humanitarian action and counterterrorism measures, before discussing the more critical research on the topic and what this thesis can contribute with to the field. I then move on to map out the central tenets of the Foucauldian theory of disciplinary power, before finally addressing its role in my central arguments.

2.1 Previous Research

In recent years, significant research has explored the tensions arising from the states' counterterrorism measures in relation to principled humanitarian action. Since most of the research on the topic has been conducted by various stakeholders in the field, however, they have generally focused on the practical implications for affected humanitarian organizations. To name a few; Mackintosh & Duplat conducted a study on the 'impact of donor counter-terrorism measures on principled humanitarian action', commissioned by United Nations Office for The Coordination of Humanitarian Affairs and Norwegian Refugee Council, in which a variety of donor states' counterterrorism measures are discussed (2013); Wynn-Pope, Zegenhagen & Kurnadi have performed a case study 'on the humanitarian implications of Australian counterterrorism legislation (2015); Modirzadeh, Lewis & Bruderlein have outlined the larger conflict of norms in 'humanitarian engagement under counterterrorism' and the 'emerging policy landscape' (2011) discussing U.S material support-laws but focusing mainly on the legal aspects of the issue; and, finally, Debarre has studied the threats to 'medical care and humanitarian action in the UN Counterterrorism framework' (2018).

These studies have contributed to informing the public about the negative impacts of counterterrorism measures and provided guidance to humanitarian organizations who navigate the traitorous waters of counterterrorism regulations. What they haven't done however, is theorize on the underlying reasons for the occurrence of these measures and their tension with humanitarian principles. Such theoretical discussion has mainly emerged from the field of securitization studies. Howell & Lind (2009), and Howell (2014) have applied a *bifurcated* securitization perspective arguing that state actors since 9/11 have simultaneously 'contained' and 'engaged' NGO's in the context of the GWoT. From this point of view, "*development NGO's have become associated as a potential 'second order'*

security issue related to the macro-securitization of the War on Terror.” (Howell 2014, abstract). This line of thinking is fundamentally important, as it enables critical examination of the *intentional* state practices of the GWoT that entail viewing NGOs with suspicion and seeking to control them.

What could be argued to be currently missing within this field, however, is a critical, structural analysis of the power dynamics which underpin state counterterrorism efforts in relation to NGO’s, and more specifically humanitarian organizations. This thesis will therefore advance the Foucauldian ‘disciplinary’ mode of power to understand the logic behind practices of U.S governmental agencies towards USAID-funded humanitarian organizations. I believe that studying issues from different theoretical angles is a fruitful way to generate discussion and find possible solutions. More specifically, further studies of the explicit and implicit dynamics that underlie this phenomenon are warranted, as they have the potential to uncover arbitrary practices that ultimately affect those in greatest need.

2.2 Disciplinary Power

Foucault envisioned several modes of power that overlap and reinforce one another. Understanding these various means to exert control over bodies opens the possibility to utilize them as analytical lenses. The mode of *disciplinary power* may be usefully contrasted to that of *sovereign power* for our purposes. Foucault described sovereign power as isolated, repressive acts from above that coerce a subject into submission against their will. This mode of power can be exemplified by that of a king who carries out sporadic commands to his subjects with the underlying threat of physical punishment if disobedience is discovered.

Discipline, on the contrary, represents a much more subtle and invasive mode of power which aims to control the body ‘at the level of detail’ by making it docile and useful in advancing the aims of the institution (Sandor 2016, Roele 2014). Foucault exemplified this mode of power with the social practices employed at central state institutions such as schools, hospitals, factories and prisons, which he viewed as a “machinery of power” that measured and broke down individuals, producing docile bodies which may be “subjected, used, transformed and improved” (Foucault 1977, p. 211, 136–38). Perhaps most famous in this regard is his work on Bentham’s Panopticon, the circularly architected prison in which interns are subjected to the constant threat of surveillance and consequently adjust their behavior to err on the side of caution. This mode of power, as opposed to Sovereign power, is more decentralized and much more ambitious as it seeks to make the subject act in a certain way not through coercion, but ideally by his own will through *normalization* (Fox 1989). Discipline therefor does not only prohibit certain actions as sovereign laws do, but also *prescribes* a certain normative behavior and trains the object into enacting this. It concerns itself not only with punishing subjects who fail to live up to the preferred behavior, but with

disciplining acts of *potential* deviant behavior before they occur. *Cost-efficiency* is thus another central aspect of disciplinary power. By producing ‘docile bodies’ who act predictably and correct themselves, the cost of keeping them in line is lowered significantly as the need for official action is reduced. Finally, disciplinary power is exerted through a variety of reinforcing practices generally categorized in three main elements, to which we now turn; surveillance, correction and normalization (Roele 2014, Neal 2009, p.131-133)

Surveillance

Surveillance is an integral part of discipline that consists of two useful features. First, it produces knowledge about the subjects’ conduct, and consequently what’s required for normalization. Detailed knowledge of the subject’s behavior is key to maintain continued efficiency in the mechanisms of discipline. Second, surveillance also fills the purpose of correcting the behavior of the subject (Roele 2014). As Foucault explained, “*the exercise of discipline presupposes a mechanism that coerces by means of observation*” (Foucault 1977, p.171) According to this theory of omni-visibility, the subject will conform and self-correct his behavior, knowing that he might be exposed to surveillance at any time. Additionally, Foucault saw *examination* and *assessment* as two important elements in surveillance. Assessment allows for deficiencies in the subject’s behavior to be observed. Examination, then, function as “*a normalizing gaze, a surveillance that makes it possible to qualify, to classify, and to punish*” (Foucault 1977, p.184). This allows for ranking of the objects depending on their degree of normalization, which is a correctional technique that will be discussed further below.

Correction

While surveillance of the subjects allows for identification of errors, the purpose of correction is to rectify them. Correction is subtle and occur at the microphysical level, through what may be perceived as humble suggestions concerning small details in the subject’s behavior. Upon closer study however, the disciplinary element of correction is extremely invasive, aiming to fill every ‘gap’ and deficiency that is identified through the mechanism of examination. As previously stated, because of the cost-efficiency of disciplinary power, the ideal method of correction is putting the subject in a position in which it is both able and willing to change its own behavior and normalize. This is achieved, *inter alia*, through techniques such as ranking and hierarchization, which may serve both as reward and punishment, thus creating incentive for the subject to adhere to the preferred norm. The element of correction gives priority to ‘reducing gaps’ rather than demanding vengeance for norm-breaking behavior. Correction of deficiencies can thereby be justified for the subject’s own good, a crucial aspect of disciplinary power (Roele 2014).

Normalization

The norm is central in disciplinary power, as it is the ideal against which subjects are measured when being subjected to surveillance and correction. In contrast to juridical norms which stipulates only what is forbidden, disciplinary norms prescribe what ought to be done in order to realize a certain result and increase 'utility'. Normalization occurs when an individual act completely in obedience with the norm, thereby being docile and useful in furthering the objectives of the institution. Those subjects who cannot conform to the norm may be given assistance or training in order to do so, while subjects who refuse to conform will be brought in line by repression or be excluded (Roele 2014).

Applying Disciplinary Power – Key Assumptions

How can this theoretical insight be utilized to answer “*How (do) US agencies attempt to ‘discipline’ humanitarian organizations into reducing their presence in areas controlled by designated terrorist organizations?*”? I have constructed a theoretically grounded argument, based on four key assumptions, in order to provide clarity to the reader regarding my line of thought in this regard;

1). Humanitarian organizations and U.S governmental agencies are driven by contrasting views, principles and priorities concerning the relation between counterterror measures and humanitarian action. The former is guided by the norm of humanitarian principles and therefore prioritizes enabling conditions for humanitarian access based on need only, while the latter is guided by the norm of non-association with terrorists and prioritize eliminating any ‘weak spots’ in the GWoT. This dynamic is further elaborated upon in section 4.1.

2). Since humanitarian organizations are perceived as potential ‘weak spots’ by U.S governmental agencies due to their explicit neutrality and adherence to the humanitarian principles, they need to be co-opted into enacting the GWoT-norm of *non-association* and avoid DTO-controlled areas. Logically, the U.S would strive to achieve this objective in the most cost-efficient manner available.

3). The relationship between humanitarian organizations and U.S governmental agencies is highly asymmetrical, as the former depend on funds and acceptance from the latter. U.S governmental agencies can therefore exert significant power over humanitarian organizations by leveraging funds or threatening with legal action. Furthermore, as will be discussed in section 4.2.2, humanitarian organizations may perceive themselves as solitary in their struggle because they compete for the same funds.

4). Strictly prohibiting humanitarian organizations from working in DTO-controlled areas would generate excessively high cost due to massive criticism and loss of international reputation. ‘Disciplining’ humanitarian organizations into self-correcting their behavior and avoiding DTO-controlled areas because they believe it’s in their best interest, is a more cost-efficient option. Therefore, I argue that U.S governmental agencies use measures characteristic of Foucauldian disciplinary power to achieve their goal.

In section 3.4, the operative measurements used for conducting the study will be outlined.

3 Methodology

In this section, I will explain the methodological considerations made when conducting this study, in order to increase its transparency. First, the case study design and the notion of analytic generalization will be discussed, followed by selection of material, a discussion on Foucauldian discourse analysis and, finally, the operationalization of the theory through analytical questions.

3.1 Case Study Design

I have designed this thesis as a single case study by studying the disciplinary practices of U.S governmental agencies toward USAID-funded humanitarian organizations. These practices constitute a single case as they are not analyzed comparatively, but rather viewed as multiple institutions who form a web of disciplinary power. I have chosen this design, as opposed to constructing a comparative study with multiple cases, because I aim to provide a *rich description* of this complicated matter. It's worth noting that single case studies often are subject to critique from researchers who favor comparative studies due to their perceived enhanced generalizability, i.e. the possibility for the findings to be scientifically relevant in other settings (Flyvbjerg 2003/4, p.185-6, George & Bennett 2004).

However, by distinguishing between *statistical* generalization and *analytic* generalization, case studies can indeed achieve generalizability. Statistical generalization requires the collection of a representative sample of cases in order to enable generalization across different populations of data. Analytic generalization, on the other hand, aims to expand, develop and generalize theories by applying them to cases that characterize the central concepts of the theory (Yin 2003, p.10-11, Schwandt 2011, p.127). This study aims to make possible analytic generalization through the application of the Foucauldian theory of disciplinary power in a novel context. As evident below in section 3.4, I have constructed several analytical questions from the main theoretical concepts. Through this operationalization of the theory, I intend to facilitate its application elsewhere as a practical tool for unpacking implicit power relations.

3.2 Selection of Material

I have chosen to focus my study on the practices of the governmental agencies of the U.S as I would argue that they represent a unique case for several reasons. First, the U.S is the single largest donor of humanitarian aid in the world – spending \$8 billion in 2017 alone (Connell 2018) - thereby having a detrimental impact on the international humanitarian community. Second, they have historically enjoyed a reputation as a champion of liberal and tolerant values, making evidence pointing to the contrary principally interesting. Third, the U.S *“has widely been seen as providing global leadership and intellectual innovation in the development and enforcement of domestic and international counter-terror regimes”* (Modirzadeh et al., 2011 p.6), meaning that their practices within the field are likely to proliferate elsewhere.

In order to demonstrate the occurrence of disciplinary power as outlined in section 2.2, I will analyze the practices of U.S governmental agencies, specifically; USAID's implementation of its Partner Vetting System (PVS); USAID's use of antiterrorism financing due diligence clauses in donor grant contracts; and the Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities produced by the U.S Department of Treasury. Additionally, I will analyze the impact of U.S federal laws concerning ‘material support’ to terrorists. These have been selected because they are the main governmental practices that regulate counterterrorism in relation to humanitarian organizations.

I have also made the choice to only study the disciplining of USAID-funded American humanitarian organizations, as these tend to have a more permanent relationship with U.S governmental agencies than foreign organizations that might be sporadically funded for a specific project only. The material gathered consists of primary sources such as policy documents and law sources, as well as secondary material consisting of news articles and policy briefs.

Finally, I have set the time frame for the data collection to the years between 2001 and 2018. This is because several important institutional changes took place in the U.S state apparatus in the aftermath of the 9/11-attacks. These first years were also formative for the GWoT-discourse, as will be shown in section 4.1. Simultaneously, USAID's introduction of its Partner Vetting System is ongoing, creating the need for a rather large timespan. It should be noted that the collection of data for this study won't be exhaustive, but rather sufficient to sketch out the main development of disciplinary practices within U.S governmental agencies since 9/11 and provide a rich description of the case.

3.3 Foucauldian Discourse Analysis

‘Discourse’ is by no means an uncontested and agreed-upon concept, nor is the methodological application of discourse as a means for analysis. On the contrary,

discourse analysis takes several shapes and forms, focusing to various degrees on the content of written texts. The discourse analysis employed by Foucault departs from this focus on linguistics by broadening the conception of ‘discourse’ significantly (Bergström & Boreus 2012, p. 358). Discourse in this sense includes both written texts and social practices that produce a certain way of reasoning and understanding the world. Discourse is therefore intimately connected with power, as it produces ‘truths’ about what can be, said, done and thought. Phenomenon commonly thought of as objective truths are thereby viewed merely as successful discourses that have achieved hegemonic status, according to this post-structuralist perspective. The discourse therefore sets the boundaries for actions, by confining individuals and organizations to certain *subject positions* rather than being actors with unlimited possibilities. It can be likened with a dynamic system of rules which legitimizes certain knowledges about the world and delegitimizes others, whilst simultaneously deciding who has the right to speak with authority (Halperin & Heath 2017, p.312, Bergström & Boreus 2012, p. 357-386).

For the purpose of this thesis, then, applying a Foucauldian discourse analysis entails localizing the *subject positions* of – and power dynamics between – humanitarian organizations and U.S governmental agencies within the broader discourse of the GWOt. This will be done using the specific analytical framework of ‘disciplinary power’, indicated in the empirical material by the analytical questions developed in the following section, to investigate the ways in which humanitarian organizations are disciplined. The basic tenets of the GWOt-discourse, as well as the contrasting view promulgated by the humanitarian principles, will be outlined in section 4.1, ahead of the analysis.

3.4 Operationalizing Disciplinary Power

In order to achieve a high degree of validity and be cumulative, the theory must be operationalized in a way that makes the research reproduceable by other researchers. This is done by constructing clear indicators that work as reliable measures of the theoretical framework (Höglund & Öberg 2011, p.97). In the specific context of discourse analysis, transparency and coherence regarding how the text is analyzed is important to minimize potential author’s bias (Halperin & Heath 2017 p. 317) In order to indicate the occurrence of disciplinary power and answer the research question, I will search for discursive practices that bear evidence of surveillance, correction and normalization as outlined in section 2.2. This will be done by asking theoretically grounded analytical questions to the empirical material, which will be answered through analysis.

In order to establish the degree to which disciplinary **surveillance** is perpetrated the following questions will be asked:

- *Do U.S governmental agencies subject USAID-funded humanitarian organizations to invasive surveillance practices that “coerce(s) by means of observation” and generate self-correcting behavior?*

- *Do they employ techniques of examination and assessment?*

For the purpose of finding evidence of disciplinary **correction** the following questions will be asked:

- *Do U.S governmental agencies emphasize cost-efficiency through encouragement of self-correction of potential behavior ‘for the subjects own good’?*
- *Do U.S governmental agencies pursue practices of ranking and hierarchization of USAID-funded humanitarian organizations based on their willingness to ‘normalize’?*

Finally, in the search for indicators correlating with the mechanism of **normalization**, the following question will be asked:

- *Do U.S governmental agencies attempt to render USAID-funded humanitarian organizations ‘docile bodies’ which conform and normalize?*

The answers to these analytical questions will then be summed up and discussed in section 5 in relation to the research question of this thesis.

4 Background and Analysis

In this section, the countervailing trajectories and logics of the humanitarian principles and the GWoT-discourse will first be outlined and contrasted in order to provide context for the reader. Following this, the analytical questions are applied and discussed in relation to the material.

4.1 Contrasting Views in the Post-9/11 Climate

The logic and priorities of Humanitarian organizations

The mandate to offer impartial assistance to any actor strictly based on humanitarian need in a non-international armed conflict (NIAC) is stipulated in IHL, including to civilian populations under the control of Non-State Armed Groups (NSAG) (Common Article 3, AP II). This provision includes a responsibility for governments to allow humanitarian organizations to negotiate with NSAGs in order to seek their co-operation and deliver the aid effectively and safely. While the right to provide such assistance extends to civilian populations only, it is generally recognized that humanitarian assistance may inadvertently benefit NSAGs to some extent. Terrorist groups are legally considered as NSAGs (Modirzadeh et al 2011).

The norm of principled humanitarian action, encapsulated by the principles of *humanity, neutrality, impartiality* and *independence*, is well entrenched within the international aid community and generally viewed as a foundation for all humanitarian work. *Humanity* refers to the humanitarian imperative, that “human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and ensure respect for human beings.” The principle of *neutrality* states that “Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature.” *Impartiality* means that “humanitarian action must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious belief, class or political opinions.” Finally, *independence* signifies that “humanitarian action must be autonomous from the political, economic, military or other objectives that any actor may hold with regards to areas where humanitarian action is being implemented” (Labbé 2015).

While initially developed to guide the work of the International Committee of the Red Cross, the four principles have since been formally endorsed in two General

Assembly resolutions (GA res. 46/182, 1991 & GA res. 58/114, 2003). The humanitarian principles serve multiple purposes; they function as a code of conduct for humanitarian organizations in complex situations, give legitimacy to their work by separating it from political actors, and thereby ensures the safety of their personal and – by extension – their beneficiaries (Macdonald & Valenza 2012). This is the norm which humanitarian actors prioritizes and seek to follow to their best capacity.

The discourse of the Global War on Terror

Since the events of 9/11 and the declaration by the Bush administration of the Global War on Terror, terrorism has gained prominence as the number one threat to international peace and security in the eyes of world leaders. Scholars within the field of securitization studies have noted how the issue of terrorism has been constructed not only as a threat to national security by the Bush administration, but also as a meta-threat at the global level. A key consequence of the securitization process is that it allows for an issue to be elevated above the realms of ‘ordinary politics’, legitimizing the employment of exceptional measures and practices that might otherwise be deemed inappropriate (Buzan & Waever 2009).

This has certainly been the case during the 18 years following the start of GWoT, as evident by government responses to the alleged existential threat posed by terrorism. The U.S.-initiated military interventions into Iraq and Afghanistan in the name of pre-emptive self-defense against terrorists have been widely deemed unlawful by experts within the field (see for example HRW 2004a); the U.S establishment of extra-judicial detention facilities such as Abu Ghraib and Guantanamo Bay and use of ‘enhanced interrogation techniques’ have received massive critique by human rights-activists (HRW 2004b, Amnesty International 2018) and the secret practices of intrusive global surveillance purported by the U.S National Security Agency resulted in an international outcry following their disclosure (von Solms & van Heerden 2015). These are only a few examples from a burgeoning pile.

Common to these measures during the GWoT are their morally and legally questionable relationship to constraining international law. Furthermore, these practices may be linked to a broader discourse which has formed U.S counterterrorism policy in the post 9/11 landscape. Being constructed as an existential threat to the American people, the threat of terrorism has generated a series of discursive responses by the U.S government, dictating how the issue is perceived. One key theme is the de-politicizing of terrorism, presenting it as a simplified dichotomy of good versus evil in which terrorists are portrayed as fundamentally different, irrational and pathologically evil. From initially being perceived as a radical method used by certain non-state actors to further their political objectives, ‘terrorist’ in the post 9/11-climate has become an identity (Jackson 2016, p.52).

Viewed through a Foucauldian lens of discourse analysis, this has severely limited the actions that may be taken in relation to actors designated as terrorist by generating certain hegemonic “truths”. These truths are epitomized by George Bush’s infamous words “*Either you are with us or you are with the terrorists*”

(Bush 2001) and the proclamation that “*The only way to deal with these people (terrorists) is to bring them to justice. You can’t talk to them. You can’t negotiate with them.*” (Bush 2003). This norm of absolute *non-association* with terrorists has remained heavily influential in the GWoT-discourse and will be theorized as the norm towards which humanitarian organizations are disciplined.

4.2 U.S Governmental Agencies’ Disciplinary Practices

Now, let’s turn to the analysis of U.S governmental agencies’ perpetuation of disciplinary power. It is worth noting that while separated into three broader categories of surveillance, correction and normalization, the disciplinary practices overlap and intersect to a high degree. Nevertheless, this categorization allows for a more structured analysis.

4.2.1 Surveillance

The disciplinary practices of USAID’s Partner Vetting System

In 2013, the USAID launched the pilot program Partner Vetting System (PVS) with a view to “*complement the Agency’s other requirements for terrorist financing clauses, terrorist financing certifications, and review of public lists of designated groups and individuals*” (USAID Procurement Executive 2015). PVS require government funded humanitarian organizations to collect and provide extensive identifying information on their key staff, local partners, subcontractors and select beneficiaries. This information is checked against law enforcement- and classified intelligence databases such as the Federal Bureau of Investigation’s (FBI) Terrorist Screening Center in search for “derogatory information” prior to the payment of any grant. The aim of the program is to ensure that no U.S-funds accidentally benefit terrorists or organizations associated with terrorism. If the pilot - which initially has been implemented in Guatemala, Kenya, Lebanon, the Philippines, and Ukraine - is considered successful, the program will eventually be introduced globally (CHE 2013).

Prior to the vetting of awardees, USAID will conduct a Risk-Based Assessment (RBA) to determine the funds’ likelihood of inadvertently benefitting terrorists based on; the type of organization that will perform the activity, the geographical location in which it will be implemented, safety measures taken, and how ‘divertible’ the aid is considered to be. Based on the RBAs outcome, the Agreement Officer will decide whether vetting is required. If it is, the process of vetting then

follows several steps; First, the primary awardee of the grant is required to collect and submit information on key individuals within the organization and within subcontractors, vendors, and select beneficiaries. The organization submitting the form is also required to assure that it has taken all reasonable steps to verify the information provided. The vetting officer, to which the identifying information is submitted, then forwards it to USAID's Office of Security (SEC). The SEC runs the identifying information against the classified databases and makes a vetting determination, which finally is reported back to the organization and the USAID officer handling the grant. While USAID has alleged that intelligence agencies won't retain data on individuals in cases where there's no match, no such assurances are given in cases where a match is found. Approvals are valid for one year (CHE 2013).

Here, we return to our analytical questions from section 3.4:

- *Do US governmental agencies subject USAID-funded humanitarian organizations to invasive surveillance practices that “coerce(s) by means of observation” and generate self-correcting behavior?*
- *Do they employ techniques of examination and assessment?*

While the PVS allows for USAID to monitor the humanitarian organizations' implementation efforts (of the *non-association* with terrorists norm) by mechanisms through which its staff, subcontractors and select recipients are subjected to annual vetting, its techniques of surveillance aren't yet developed to a panoptical degree of pervasiveness. PVS is historically pervasive in its ambition to vet all USAID-funded organizations, yet lacks a mechanism, as present in the example of Panopticon, for monitoring them 'at the level of detail' once the vetting has been completed.

However, the obscurity surrounding the retaining of the information in classified intelligence databases, and how it will be used, does have a significant potential of '*coercing by means of observation*' and *creating self-corrective behavior*, once the program is implemented globally. Humanitarian organizations who plan to implement projects in sensitive contexts are placed in an awkward position when they are required to collect identifying information on local partners and beneficiaries. In these situations, administrative authorities and DTO-listed groups may be hard to separate, as evident by the presence of Hamas in the Gaza-strip or Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, for example. Knowing that the risk that at least one of the local partners and/or beneficiaries might have 'derogatory' ties to a DTO is severe, the organization face a choice. Either they go ahead and collect the identifying information required by PVS, running the risk of being perceived as U.S intelligence officers by the DTO and thereby potentially endangering themselves. Or, they self-correct their behavior, compromise with the humanitarian imperative and conform to the discursive GWoT-norm of *non-association* by localizing the project elsewhere. The 'examinatory gaze' of PVS thereby has a strong potential of disciplining humanitarian organizations' into avoiding DTO-controlled areas.

The disciplinary surveillance technique of *assessment* is also clearly present though the RBA performed in order to determine the need for vetting. This mechanism provides USAID with an initial risk profile that excludes ‘normal’ subjects complying with the norm of non-association, while prescribing the need for vetting of suspected ‘abnormal’ subjects who decides to undertake projects in high-risk environments. The cost-effectiveness evident in this technique is characteristic of disciplinary power. Furthermore, one of the explicit purposes of implementing the PVS is to “*Gather information regarding the cost effectiveness of using partner vetting as an additional means to prevent the inadvertent funding of terrorism.*” (USAID Procurement Executive 2015).

Finally, there is admittedly nothing that suggest that the mechanism of *examination* is used to collect information in order to facilitate ranking of humanitarian organizations behavior based on their compliance with the norm of non-association. Nevertheless, through the implementation of the PVS USAID has gained an important surveillance mechanism to monitor the behavior of USAID-funded humanitarian organizations in terms of who they associate with throughout their projects. While PVS lacks the omni-visible character of the Panopticon, it’s certainly invasive in that it has the potential to “*coerce(s) by means of observation and generate self-correcting behavior*”. Subjected to the gaze of intelligence officers in Washington searching for “derogatory information”, humanitarian organizations will have a hard time implementing projects in areas where they know the risk is high that local partners might have some relation to a DTO.

4.2.2 Correction

USAID response regarding PVS infringement on NGO-neutrality

In its final rule on PVS in January 2009, USAID commented on some of the criticism from various NGO’s. One major concern was the dangers associated with implementing partners of USAID being perceived as intelligence providers rather than impartial humanitarian actors. USAID stressed that PVS shouldn’t be viewed as a system in which USAID personnel act as intelligence officers and noted that NGO’s already are required to submit identifying information before initiating a project. However, they avoided the fundamental issue pertaining to the use of classified intelligence databases in the vetting process. Instead, they made the argument that PVS, rather than posing a threat, would enhance the safety of USAID personnel;

“Further, as previously communicated to the NGO community, one of the purposes of PVS is to enhance the safety overseas of both USAID personnel and officials and employees of USAID’s partners. Ensuring that principal individuals, officers, directors or other employees are not associated with terrorists or terrorism, where such individuals will be working with USAID Missions and will be implementing USAID foreign assistance activities alongside other partner employees, can only improve safety and reduce the risk of kidnapping, assassination or injury.”(USAID 2009, p16).

USAID response regarding the demonstrated need for PVS

A second, main point of critique aimed at PVS which USAID addressed in its final rule, concerned the demonstrated need for the program. In short, the organizations commenting on the implementation of PVS cited the lack of evidence that USAID funds had been inadvertently benefitting terrorists significantly. In response, USAID cited three unverified cases of media allegations reporting on diversion of USAID funds to terrorists. Furthermore, they added the following statement;

“Moreover, whether or not any of the allegations referred to above had a valid basis in fact, USAID does not believe that it should wait for hard proof that our funds are actually flowing to terrorists before implementing additional safeguards to its anti-terrorist financing program—even the suggestion that our funds or resources are benefiting terrorists is harmful to U.S. foreign policy and U.S. national interests.” (USAID 2009 p.2)

Material-support laws

Since 9/11, the U.S has devoted significant energy to suppressing financing of terrorism through the construction of an extensive legislative framework. Of greatest importance for this paper is the so-called material support-statute in U.S federal law, which stipulates prohibitions on aiding and supporting terrorism in various ways. Within two weeks of the 9/11-attacks, President Bush signed Executive Order 13224, blocking any transaction to Specifically Designated Nationals considered likely to commit a terrorist attack and prohibiting support to them. Shortly after, the USA Patriot Act was enacted by Congress, introducing major changes to expand the power of intelligence agencies, presidential powers and strengthen existing statutes in federal law regulating the support of terrorism (Adelsberg et al., 2013). These statutes, 18 U.S.C. § 2339A and § 2339B, and § 2339C, enacted in 2002, provides a legal basis for prosecuting individuals who "*knowingly* provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so." (18 U.S.C. § 2339B(a)(1) (emphasis added). This means that no *intent* to further the aims of terrorist organization is needed for the individual to be found guilty, only knowledge of the fact that the organization is terrorist designated, has engaged or is engaging in terrorist activities. Importantly, ‘material support’ is defined as;

Any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and transportation, except medicine or religious materials. (18 U.S.C. § 2339A(b)(1)

This definition is broad enough to include most humanitarian activities. The only clear exception explicitly stated to this statute regards the provision of medicine or religious materials. Interestingly, however, this exception is rather

narrower than it was in the earlier version of the statute, in which ‘humanitarian assistance to persons not directly involved in such violations’ was exempted. Of critical importance is the - yet unanswered - question if the vague exemption of ‘medicine’ only refers to medical equipment such as pills, or if it should be interpreted to include other related activity such as professional medical assistance (Fraterman 2012, p. 400-411).

In 2010, the Supreme Court rejected a challenge to the constitutionality of this legislation made by Humanitarian Law Project (HLP). The case *Holder vs HLP* is the first clear interpretation of this statute by an American court, thereby creating a praxis for future cases. HLP inquired about the legality of two planned projects in which it would provide humanitarian and human rights training to members of the terrorist designated Sri Lankan LTTE and Kurdish PKK, with the purpose of training them to promote their political goals peacefully rather than through acts of terrorism. HLP argued, amongst other things, that the prohibition of ‘training’ and ‘expert advice’ in the statute were unconstitutionally vague. In its decision to uphold the constitutionality of the statute, the Supreme court relied on the broad fungibility¹ argument - made by Congress when enacting the law, stating that;

“foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.” (Modirzadeh et al 2011., p.11-12).

Antiterror-financing clauses and due diligence-requirements in grant contracts

The legislation discussed above has been incorporated into USAID anti-terrorism financing clauses in all grants awarded. Typically, the awardee is reminded of U.S counterterrorism legislation and required steps of due diligence to be taken in order to ensure that funds aren’t used to finance DTOs. This usually includes subcontractors, implementing partners and sub-grantees. In the case of humanitarian emergency operations undertaken in Somalia, USAID requires *enhanced due diligence* to be taken. This includes a range of measures, for example, by signing the contract;

“The Grantee agrees that it and/or its implementing partners (including contractors, grantees, sub-contractors and sub-grantees) will take all reasonable steps to minimize knowing and voluntary payments or any other benefits to al Shabaab, or to entities controlled by al Shabaab, or to individuals acting on behalf of al Shabaab[...]” (CHE 2014, p.69).

The requirements of due diligence in USAID donor contracts work in tandem with the material support-law, by constantly reminding the grantees of their legal obligations and the precaution they must show in order to avoid having their contract terminated and possibly face prosecution. Clauses of this sort have been proven to negatively impact humanitarian presence in areas where terrorist groups administer territory, resulting in a ‘chilling effect’ on humanitarian operations. Reportedly, organizations have decided not to undertake projects in these areas or

¹ Two commodities being viewed as interchangeable

felt forced to seek alternative funding because complying with the clauses would entail compromising with the principle of neutrality (CHE 2014 p.4). This has also been reported in relation to the material-support law. According to the country director of one of the largest NGO's working in Somalia:

“US and UK terrorism financing laws are a significant discouragement to operating in al-Shabaab areas. At the very least, you could end up wasting a huge amount of time explaining yourself; at worst, if substantial amounts of aid were appropriated by al-Shabaab – as has happened to people in the past – you could end up in court with your organisation shut down,” (Burke 2017).

The discursive practices outlined above will now be analyzed with respect to the analytical questions:

- *Do U.S governmental agencies emphasize cost-efficiency through encouragement of self-correction of potential behavior ‘for the subjects own good’?*
- *Do U.S governmental agencies pursue practices of ranking and hierarchization of ‘normal’ and ‘abnormal’ USAID-funded humanitarian organizations based on their willingness to conform?*

The response by USAID to the concern that NGO's might be perceived as intelligence officers epitomizes an important part of discipline - it presents its practices as necessary “for the subjects own good”, rather than as repressive measures introduced to control it. Similarly, by arguing that it aims to enhance the safety of USAID personnel and partners by ensuring that they are not associated with terrorists, PVS is presented as a friendly safety measure instead of an institution that purports surveillance and corrects humanitarian organizations behavior.

As noted in section 2.3.2, due to its emphasis on cost-effectiveness, another central aspect of the correctional element of discipline is its ambition to identify and correct potential deviation from the norm *before* it occurs. This ambition is clearly present in USAID's motivation of the need for PVS, as they argue that they should not “have to wait for hard proof” of actual diversion of funds to terrorists in order to implement a system like PVS. Also, of interest for this thesis, is the statement that “*even the suggestion that our funds or resources are benefiting terrorists is harmful to U.S. foreign policy and U.S. national interests.*”. This statement can be linked to the GWOt-discourse, in which even *suggestions* of support to or association with terrorists are considered worthy of correction.

Concerning the impact of U.S material-support-statutes, it should be noted that laws are not written in a vacuum but may rather be perceived as the codification of hegemonic discourses. This is certainly the case with the prohibition of material support. Of special interest is the interpretation a DTO is so *tainted by its conduct* that any support - even training in peaceful conflict resolution – facilitates its activities. This argument fits well with the hegemonic discursive construction of the terrorist identity as *fundamentally different, necessarily irrational, and pathologically evil*. Through the promulgation of this discourse, a barrier is raised

between humanitarian actors and DTOs, making humanitarian efforts in DTO-controlled areas that much harder. Moreover, I would argue that the material support-statute may be understood as a complementing instrument for correcting the behavior of USAID-funded humanitarian organizations. Of course, it does not go so far as to put a blanket ban on the provision of humanitarian aid in areas controlled by DTOs. Doing so would likely entail high costs in terms of much louder criticism from legal and humanitarian stakeholders. Instead, in line with the cost-effective logic of disciplinary power, the present formulation of the material support-law and the exemption of ‘medicine’ is just vague enough to make humanitarian organizations err on the side of caution and self-correct their behavior by avoiding such areas altogether.

The wording *enhanced due diligence* in antiterrorism financing clauses of grants to projects undertaken in Somalia is rather peculiar, as due diligence per definition means that all reasonable steps have been taken to comply with the law. The meaning of the addition of *enhanced* is therefore somewhat unclear, implying that the organization somehow can do more than take all reasonable steps to avoid funding Al-Shabaab. Understood as a discursive practice within the GWoT-discourse however, one can see the disciplinary potential in such language which lays an even heavier burden of compliance on the subjects. Once again, rather than explicitly forbidding humanitarian organizations to implement projects in Al-Shabaab-controlled areas, the requirement of enhanced due diligence prescribes such extreme caution that it practically achieves the same result.

Interestingly, all though several humanitarian organization have raised complaints against the anti-terror financing clauses it has been noted that they “[...] do not yet have the power to effectively bargain as a group, due not only to different conceptions of what is the best strategy but also out of a sense of competition for donors.” (CHE 2014 p.6). This suggests that whilst the disciplinary technique of ranking individuals according to their behavior in relation to the norm is absent, the institutionalized relationship between USAID donors and applying organizations still constitute a way of separating the *normal* from the *abnormal*. Theoretically, if an organization refuse to accept the terms because they infringe on humanitarian principles, there’s always another organization who’s willing to accept the conditions in order to receive funding. By adhering to the norm of *non-association* and avoiding projects in DTO-areas, then, an organization is conceivably more likely to receive funding. In this sense, the distribution of funds amongst applying humanitarian organizations works as a powerful disciplinary mechanism that corrects their behavior.

4.2.1 Normalization

U.S. Department of the Treasury: Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities

The U.S. Department of the Treasury (Treasury) plays a vital role in the U.S. regulative framework for antiterrorism financing by cooperating with other elements in the federal government. In 2002, it released its first edition of the Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities. The purpose of these guidelines, which have been revised and updated several times since, is allegedly to “*enhance awareness in the donor and charitable communities of the kinds of practices that charities may adopt to reduce the risk of terrorist financing or abuse.*” (Treasury dep. 2006, p.2), and “[...]facilitate legitimate charitable efforts and protect the integrity of the charitable sector and good faith donors by offering the sector ways to prevent terrorist organizations from exploiting charitable activities for their own benefit.” (ibid, p.3). Treasury lists several, rather detailed guidelines on best practices in five main areas; Fundamental Principles of Good Charitable Practice; Governance Accountability and Transparency, Financial Accountability and Transparency, Programmatic Verification, and Anti-Terrorist Financing Best Practices. Perhaps of most interest for the present thesis, however, are the guidelines pertaining to the area of Anti-Terrorist Financing Best Practices. Here it is, *inter alia*, stipulated that a charity should conduct vetting of its grantees through “*a reasonable search of publicly available information to determine whether the grantee is suspected of activity relating to terrorism, including terrorist financing or other support. Charities should not enter into a relationship with a grantee where any terrorist-related suspicions exist;*” (ibid, p.10). The same guidance applies to the charity’s vetting of its own key employees, with the addition that it “*should provide information on any suspicious activity relating to terrorism, including terrorist financing or other support*” (ibid, p.13) back to Treasury, or to the local field offices of the FBI.

We now turn to the final analytical question:

- *Do US governmental agencies attempt to render USAID-funded humanitarian organizations ‘docile bodies’ which conform and normalize?*

The guidelines have received significant critique from the non-profit sector, calling for their withdrawal. For instance, while they are explicitly voluntary since the 2006 revision, their actual voluntary nature has been questioned due to the repeated use of the word “should” and labeling of the guidelines as ‘best practices’ (McFadden & Wells 2007). By applying the lens of disciplinary power, one may interpret their function as an attempt to stipulate the norm for humanitarian organizations and prescribe what is to be considered ‘normal’ behavior. While not explicitly stated, the guidelines encapsulate the norm of *non-association with terrorists* by imploring organizations to conduct vetting of their grantees and employees and terminate the relationship or even report to FBI if they encounter “*any suspicious activity relating to terrorism*”. The broadness of this formulation leaves little room for key humanitarian practices which may conceivably be viewed as *suspicious activity relating to terrorism* in the context of DTO-controlled areas, such as negotiating

access to populations or co-operating with local authorities to implement the aid effectively. A humanitarian organization which fully complied with these ‘best practices’ would certainly have a hard time fulfilling the humanitarian imperative by establishing projects where the need is greatest, if this coincides with an area controlled by Al-Shabaab, for instance. As previously stated, such instances of *normalization* have already occurred repeatedly, when humanitarian organizations have been disciplined into docile and useful subjects who conform to the norm of *non-association* by locating their projects elsewhere.

Finally, an underlying assumption in the guidelines is that the organizations must be protected from exploitation by terrorists, as funds from charities allegedly represents a major source of financing for DTOs. They therefore offer detailed yet ‘voluntary’ guidance on how the organizations should conduct themselves in order to protect themselves from “exploitation and abuse by terrorists.” Like USAID’s argumentation regarding the need for PVS, the guidelines issued by Treasury are thereby introduced as ‘humble suggestions’, prescribing a certain behavior ‘for the sake of the organization’s own good.’

5 Conclusion

The perpetration of violent acts of terrorism to further political goals is a legitimate problem, which place the largest toll on civilians residing in areas where terrorists operate (Dudley 2016). The horrendous brutality of terrorist-organizations such as the Islamic State, Boko Haram and Al-Shabaab in the last decade towards innocent people has shocked the world and galvanized it further in its efforts to combat terrorism. While terrorism clearly must be taken seriously and addressed through comprehensive efforts, the discursive practices of the Global War on Terror have in many instances been counterproductive and even exacerbated the problem. Although it is widely acknowledged that radicalization proliferates in contexts of hopelessness and socio-economic suffering, attempts to genuinely address these issues have often been subordinated by strategies aiming to ‘suppress terrorism’ militarily or legally. The de-limiting of humanitarian access discussed in this thesis certainly constitute an example of this. Through the de-politicizing of terrorist groups and discursive construction of the “truth” that terrorist cannot be engaged, negotiated or in any way associated with, the GWoT-discourse has implicitly rendered civilians living under their control inaccessible for U.S-funded humanitarian organizations. What discursive practices and relations of power, then, have made this phenomenon possible? This begs a return to the initial research question posed in section 1;

How do U.S governmental agencies attempt to ‘discipline’ USAID-funded humanitarian organizations into reducing their presence in areas controlled by designated terrorist organizations?

As evident by the analysis in section 4.2, U.S governmental agencies have adopted several practices towards USAID-funded humanitarian organizations that disciplines them to compromise with the humanitarian imperative and conform to the norm of *non-association* with terrorists by locating their projects elsewhere. While perhaps less obvious than the formal disciplinary mechanisms of the Panopticon, the various techniques of surveillance, correction and normalization perpetrated by the U.S governmental agencies identified above together form a web of disciplinary power.

First, through the implementation of the Partner Vetting System, USAID have taken groundbreaking steps in its surveillance efforts to *subject USAID-funded humanitarian organizations to invasive surveillance practices that “coerce(s) by means of observation” and generate self-correcting behavior*. While currently a pilot program established in five countries, the PVS will, if introduced globally, significantly improve USAIDs ability to monitor who humanitarian organizations associate with when implementing their projects. As discussed in section 4.2.1, the mere prospect of being subjected to surveillance through classified databases by

intelligence officers is likely to have a coercive effect and generate self-correcting behavior when organizations plan where to implement their next project. In addition, while this *examination* was not found to be related to a ranking of the organizations, the RBA performed prior to vetting match the disciplinary characteristics of *assessment* in that it separates the ‘normal’ from ‘abnormal’ and decides who should be vetted further.

Moving on to the element of correction, the same practice was identified in the disciplinary mechanism of distribution of funding. While USAID doesn’t explicitly *pursue practices of ranking and hierarchization* in order to correct humanitarian organizations, there is certainly an element of separating the ‘normal’ from the ‘abnormal’ based on *USAID-funded humanitarian organizations’ willingness to conform*. Through the incorporation of extensive anti-terror financing clauses in grants, which lay a heavy burden of due diligence on the grantee, the norm of *non-association* is promulgated. ‘Abnormal’ humanitarian organizations who refuse to compromise with their principles and accept the conditions may thereby easily be separated and replaced by ‘normal’ ones who are more complacent.

Furthermore, a clear *emphasis toward cost-efficiency through encouragement of self-correction of potential behavior ‘for the subjects own good’* was identified in U.S governmental agencies’ practices. In USAID’s responses to concerns surrounding the impact of PVS, they argued - contrary to the perceptions of the respondents - that the vetting program would enhance the safety of humanitarian organizations. USAID also reflected the cost-efficient nature of disciplinary power in its defense of the actual need for PVS, by arguing for the importance of correcting abnormal behavior prior to its occurrence.

Additionally, the material support-statute in U.S federal law was also found to be an important *cost-efficient* mechanism that generates significant self-correction within the humanitarian community. The constitutionality of the often-criticized material support-law was upheld by the Supreme Court in the Holder vs HLP-case through an argument heavily influenced by hegemonic GWoT-discourse; that terrorist organizations “*are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct*”. The unwillingness to exempt humanitarian aid in the interpretation of the law has sent clear signals to the humanitarian community that performing projects in known DTO-controlled areas may lead to criminal conviction in the case of aid diversion – regardless of the organization’s intent. This law combined with the praxis emanating from the Holder vs HLP-interpretation and the reminders to act with due diligence in order to comply - incorporated in USAID grants - collectively function as a strong disciplining force that encourages humanitarian organizations to locate their projects elsewhere. The requirement of *enhanced* due diligence for projects undertaken in Somalia further reinforce this dynamic. Through these measures, organizations that self-correct and compromise with their humanitarian principles are reduced to useful ‘docile bodies’. Somalia is but one example of many where this phenomenon occurs.

Finally, the element of normalization has been present through what I have conceptualized as the norm of *non-association* with terrorists, developed in the early days of the post-9/11 period. As outlined in section 4.1, this norm has been a

central aspect of the GWoT-discourse by de-politicizing terrorism and constructing it as an irrational identity that ‘cannot be negotiated with’. It has played an important role in informing the disciplinary practices discussed above, which seek to delimit interaction with terrorists, and, by extension, humanitarian projects undertaken in DTO-controlled areas. This is how *US governmental agencies attempt to render USAID-funded humanitarian organizations ‘docile bodies’ which conform and normalize*, an attempt that has been pursued further through the U.S Treasury Department’s production of antiterrorist financing guidelines which stipulate ‘best practices’. While explicitly voluntary, the suggestion that organizations should conduct vetting and report “*any suspicious activity relating to terrorism*” to FBI clearly signal that association with terrorists, even for the sake of responding to humanitarian emergencies, is off-limits for humanitarian organizations.

Through these overlapping and mutually reinforcing disciplinary practices, then, I argue that U.S governmental agencies indeed attempt to ‘discipline’ USAID-funded humanitarian organizations into reducing their presence in areas controlled by designated terrorist organizations.

Discussion of conclusions

In this thesis I have advanced a critical view of U.S governmental practices by regarding the reported restrictions of humanitarian access as logical consequences of the GWoT-discourse. It is highly likely, however, that even different parts of the U.S state apparatus disagree and take opposing positions in the discursive struggle between humanitarianism and counterterrorism. This is because different departments have various underlying goals that sometimes come in clash, such as those relating to international reputation and soft power, and those primarily focused on national security. For this reason, I have discussed the disciplinary practices of separate U.S governmental agencies rather than the U.S as a single unit of analysis. Further research on this topic might produce interesting knowledge about how this tension of norms play out between U.S governmental agencies through their differentiated attitudes.

By describing the discursive practices of disciplinary power through which U.S governmental agencies attempt to discipline humanitarian organizations, this thesis aims to uncover implicit and explicit power relations. It does not, however, purport to statistically document their effects in terms of USAID-funded governmental organizations’ presence in DTO-areas. While such a study could provide interesting quantitative data to support my arguments, it would also be fraught with reliability problems as there are multiple factors that inform organizations’ decisions to undertake a certain project, most of them publicly unavailable and hard to control for. The disciplinary practices found in section 5 should consequently not be interpreted as the single reason for organizations’ decision to avoid undertaking projects in DTO-controlled areas. Rather it should be understood as an important factor that interplays with others, such as legitimate safety concerns and lack of critical infrastructure, for instance.

Finally, since the existence of disciplinary power and its control of subjects' minds through discursive practices is more elusive than the repressive measures of sovereign power, it often goes unnoticed. As a result of this, although extremely powerful, discursive structures that constrain the freedom of individuals can remain unchallenged. As Foucault eloquently explained, "*A stupid despot may constrain his slaves with iron chains; but a true politician binds them even more strongly by the chain of their own ideas[...]on the soft fibers of the brain is founded the unshakable base of the soundest of Empires*" (Foucault 1977, p.102-3). By uncovering the disciplinary practices through which the chains of the GWoT-discourse are imposed on humanitarian organizations, then, they are given the option to choose whether to participate passively as 'docile bodies' or actively resist.

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